



"Glen Rothell"

06/20/2007 11:47 AM
MST

To: yose_planning@nps.gov
cc:
Subject: EP Road Comments

RECEIVED

EPR-REA-01
JUN 21 2007

P. 1 of 2
YOSEMITE NATIONAL PARK

Please see attached



EPRdEA.comments.doc

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EPR-REA-01
JUN 21 2007

P. 2 of 2
YOSEMITE NATIONAL PARK

Re: Reconstruct Critically Eroded Section of the El Portal
Environmental Assessment Public Review
Public Comment

Please consider the following comments regarding the above listed project:

1. The road width needs to better accommodate cyclists. The proposed road width of 11 feet with a 3 foot paved ditch and a 1 foot shoulder does not accommodate cyclists, especially in the uphill lane. A 1 foot shoulder is inadequate when a guardwall is immediately adjacent to the edge of pavement. I recommend a minimum 2 foot shoulder. This would provide room for a cyclist to ride on the shoulder and allow motorists to pass. Several road standards are mentioned as reference however I have been advised that one standard is ignored and I recommend it be considered. That standard calls for 11 foot lanes, 2 foot paved ditches and 2 foot shoulders. This results in the same road width as the proposed. A 2 foot paved ditch is narrower than the proposed so it would require additional culverts. Placing additional culverts could be easily included in this reconstruction project. Since one of the goals of this project is improved safety I feel the added margin of safety for cyclists would more than offset the added expense of these culverts. I propose this road configuration be considered not only for this section but also for the entire segment of road from Big Oak Flat Intersection to Pohono Bridge.
2. Along this Wild and Scenic River any areas of the road with grouted rip rap scour protection/retaining wall construction should be reconstructed using a more aesthetic method. There is at least one portion of the proposed project where grouted rip rap has been placed along the river. I propose this be removed and replaced with larger, ungrouted rip rap or a masonry wall. I spend a great deal of time enjoying the river and find whenever I see grouted rip rap it appears to me to be a remnant of a fast repair when aesthetics took second billing to getting the road open. Since this project is a planned reconstruction I propose removing the fast repair and replacing it with something more aesthetic yet sustainable.
3. Any rock used during the reconstruction that is left exposed should be similar to the rock that occurs naturally in the area. Since this area has granite naturally then granite of a similar appearance should be used in the reconstruction.

Thank you for considering these comments,

Glen Rothell
Cyclist and white water rafter

Yosemite National Park

National Park Service
U.S. Department of the Interior



Public Comment Form RECONSTRUCTING CRITICALLY ERODED SECTIONS OF EL PORTAL ROAD Plan / Environmental Assessment

All interested individuals, organizations, and agencies are invited to provide written ideas, concerns, or suggestions during the public comment period, which began on **June 4, 2007** and will end on **July 3, 2007**. Written comments may be mailed to: **Superintendent, Yosemite National Park, P.O. Box 577, Yosemite, CA 95389 (Attn: Reconstructing Critically Eroded Sections of El Portal Road)** or may be faxed to: **209/379-1294**. Electronic comments may be emailed to: **Yose_Planning@nps.gov** (in the subject line type: **Reconstructing Critically Eroded Sections of El Portal Road**). In addition, comments can be submitted online by going to **parkplanning.nps.gov/yose**. Keep track of project status by regularly visiting the park's web site at **www.nps.gov/yose/planning**.

Note: Anonymous comments will not be considered. Generally, The National Park Service will make all submissions available to the public for inspection.

Name: Keith Williams

Date of Comment: 6-20-07

Address: [REDACTED]

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EDR-REA-02
JUN 21 2007

P.1.031

YOSEMITE NATIONAL PARK

Comments

The discussion should not be on whether or not the road is repaired. This energy should be focused solely on how to fix the road with the least amount of environmental impact. There will be some impact but that is inevitable. Everyone involved should recognize that this road must be open and safe, and therefore must be repaired.

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(continue comments on back of page)

Los Angeles, CA
90068
June 7, 2007

Superintendent
P.O. Box 577
Yosemite, CA 95389

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EPK-REA 03

JUN 21 2007

P. 1031

YOSEMITE NATIONAL PARK

Dear Sir:

This letter is in response to the request for public comment on "Reconstructing Critically Eroded Sections of El Portal Road, June 7, 2007".

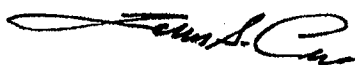
This project is not in the interests of the park, and should not take place. Two reasons were cited for doing this, first, preventive maintenance to prevent a possible catastrophic collapse of the roadbed in this vicinity, and secondly, a widening of the existing road to allow passage of larger and wider vehicles that currently cannot be safely accommodated.

As far as the first reason, I think it very unlikely that a catastrophic failure would occur here. Nothing even remotely similar to this has occurred in the past, nor did it occur during the peak of the 1997 flood. Infrastructures do require periodic maintenance, but this must not serve as a pretext for initiating an unnecessary overdesign out of context with the situation. I am certain that engineering ability exists to provide elaborate cantilever road overhangs and such, but this sort of thing has no place here. The concept of such a project in this location is entirely inappropriate.

As for widening the existing road, there is no mandate in the operations of the NPS I am aware of that requires this. If users want to bring in vehicles larger and wider than can be safely accommodated, they can simply be prohibited from doing this. What is of greater importance, accommodating these users, or preserving the natural and historic ambience of features in the park?

This proposal seems one more example of development and not preservation orientation of the current NPS management, which can only lead to further and endless lawsuits and challenges.

Sincerely yours,



Lawrence S. Crane

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Lawrence S. Crane

Los Angeles, CA 90068



~~SUPERINTENDENT~~

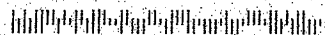
ATTN: RECONSTRUCTING CRITICALLY ERASED
SECTIONS OF EZ PORTAL ROAD

P.O. Box 577

Yosemite, CA

95389

FIRST CLASS MAIL





06/24/2007 09:31 PM
MST

To: <YOSE_planning@nps.gov>
cc:
Subject: segment d public comment from M.Acree

RECEIVED 4
EPR-REA-P183
JUN 25 2007
p. 183
YOSEMITE NATIONAL PARK

Thanks for the opportunity.



Marty segment D.doc

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Martin Acree

El Portal

CA. 95318

June 23, 2007

Superintendent Michael Tollefson
P.O. Box 577
Yosemite, CA
95389

Dear Superintendent Tollefson,

Thank you for the opportunity to comment on Segment D of the El Portal Road.

At first glance, this project seems to accomplish a balance between visitor access and floodplain preservation. Upon a closer look, I question the establishment of the Ordinary High Water Mark. The EA states: *To protect and enhance the Merced Wild and Scenic River Outstandingly Remarkable Values by preserving the free-flowing condition of the river, i.e., by building no new features below the OHWM, or beyond the limits of the existing structures where historic built features are now in the river channel below the OHWM.* Is the intent to build no new structures below the OHWM OR beyond existing historic structures? The first part of the sentence could imply that the OHWM is the limit. If that was the case, I would be concerned as much of the present OHWM is due to emergency repairs and the Cascades Dam demolition.

The emergency repair work started soon after the floodwaters receded in 1997 and has continued into 2006, altering the OHWM by adding imported granite riprap to the channel of the Merced River. The Cascades Dam project filled a large portion of the floodplain with sediment and rock removed from the crib wall of the dam filling the former impoundment pool and vastly changing the location of the OHWM. Any encroachment beyond the bio-engineered bank would violate the intent of the Dam project, which has clear goals to allow natural river processes to re-establish the floodplain. This will happen over time, only if the site remains undeveloped.

This project provides a great opportunity to work towards healing the river. I would encourage the NPS to remove as much riprap, wall, and fill from prior road building and emergency repairs. This allows the restoration of floodplain up to the edge of the road. Model road construction after the style of stone wet wall construction the state used on Highway 140 after the 1955 flood. Great examples exist at Ned's Gulch and other various locations. Invest in the future by restoring floodplain. Raising the elevation of the road and extending guard walls appears to be an effort to flood proof the road, yet will only displace flood energy possibly accelerating erosion elsewhere.

History shows us the effects of road engineering solutions with major negative effects. One example is the massive structure at Windy Point built as an emergency repair post 1997 flood. This structure is wider than the entire road prism and though it protects Windy Point and the road, it displaced a large portion of the floodplain. Evidence of substantial accelerated bank failure occurred

downstream, river left with the spring runoff of 2005 and 2006. While in the park on other business, I was able to inquire with an NPS hydrologist from the NPS Water Resources Division who felt it likely this erosion and mass wasting related to the Windy Point structure.

Another example is the massive levy adjacent the El Portal gas station. The floods of 1937 and 1950 totally washed out the highway east of this location. The engineering solution of a levy resulted in destruction of natural and cultural resources in the flood of 1997. The levy constricted the river and the accelerated energy created a new channel. The Reece house, which dated back to the 1920's, vanished and a prehistoric bedrock mortar, used for hundreds if not thousands of years, moved 30 meters down stream and landed with mortar cups facing the stream.

Attempts to flood proof section D will only push that flood energy elsewhere. I strongly encourage that we take this opportunity and not repeat history. Restore the floodplain and invest in the future by building vertical walls. This would allow for the desired lane width and have benefit to the river resources. The OHWM is not valid due to the emergency repairs and Dam deconstruction. Build with minimum encroachment on the floodplain and begin to help heal the river by decreasing the footprint of the road using vertical walls not dependent on artificial fill slopes.

Consider a lower speed limit of 25 mph to increase safety on this busy section of road. The summer river use and the BOF road intersection safety will both benefit. It does not make sense to design roads for speeds that are not compatible with park resources and the safety of the human and animal life therein.

Sincerely,

Martin Acree

Yosemite National Park

National Park Service
U.S. Department of the Interior



RECEIVED
EPR REA-05
JUN 29 2007

Public Comment Form

RECONSTRUCTING CRITICALLY ERODED SECTIONS OF EL PORTAL ROAD Plan / Environmental Assessment

All interested individuals, organizations, and agencies are invited to provide written ideas, concerns, or suggestions during the public comment period, which began on **June 4, 2007** and will end on **July 3, 2007**. Written comments may be mailed to: **Superintendent, Yosemite National Park, P.O. Box 577, Yosemite, CA 95389 (Attn: Reconstructing Critically Eroded Sections of El Portal Road)** or may be faxed to: **209/379-1294**. Electronic comments may be emailed to: Yose_Planning@nps.gov (in the subject line type: Reconstructing Critically Eroded Sections of El Portal Road). In addition, comments can be submitted online by going to parkplanning.nps.gov/yose. Keep track of project status by regularly visiting the park's web site at www.nps.gov/yose/planning.

Note: Anonymous comments will not be considered. Generally, The National Park Service will make all submissions available to the public for inspection.

Name: Vicki Jordan Date of Comment: 6/27/07

Address: [REDACTED]

Comments

I favor taking some sort of action. I drive this section about once a week in summer and find it uncomfortable. It feels a little bit dangerous. I favor whatever action makes it the safest and flood-resistant.

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(continue comments on back of page)



CHRIS MODIN

07/02/2007 02:35 PM
MST

To: yosemite <yose_planning@nps.gov>

cc:

Subject: road repair seg. D

Superintendent, Yosemite National Park
Public comment
Road Repair Segment D
P.O. Box 577
Yosemite, CA 95398

RECEIVED
EPR-REA-06
JUL 02 2007
P. 102
YOSEMITE NATIONAL PARK

July 2, 2007

Dear Sir:

Following are two suggestions that that we believe would improve your preferred Alternative 2.

1. The existing alignment along an especially narrow section of roadway perhaps 200 feet long where vertical granite cliffs in the west bound lane and a precipitous drop off to the Merced River in the east bound lane result in an unacceptable frequency of center line collisions resulting in broken mirrors and damaged vehicles. The roadbed width in this relatively short section is extremely narrow and needs to be widened minimally to alleviate this public safety and collision problem at this very narrow point. Widen the roadbed to a higher standard indicated in Alternative 2 but maintain the historic ten-foot driving lanes and one foot paved shoulders that are standard in Yosemite Valley. The expanded width could be paved but marked accordingly as a non-driving "lane". This would allow motorists a sufficient psychological buffer between the cliffs and drop off to prevent the frequent centerline incursions that presently occur along this section without engaging the road widening controversy.

2. It appears Alternative 2 calls for the removal the large heritage canyon live oak located in an especially problematic and narrow section between river and cliff. The tree could be saved by reconstructing the permanent retaining wall further into the river around its base and would be a definite preferred alternative to removal. At the tree's location the granite cliffs in the westbound lane are not vertical and it appears that the roadbed could be extended north here as needed without significant impacts to sensitive resources. The tree would be saved and the widening would alleviate the problem of sideswipe collisions at this point where the current driving lanes may be even less than 10 feet wide. Also the tree leans over the river away from the road and vehicles with extended mirrors. This would allow

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the driving lane and paved shoulder to extend to the base of the tree, lessening the need for extensive widening to the north in the westbound lane. It's a great looking tree that could live easily another 100 years or more. If it can be saved I think it should be.

I've heard of suggestions by some that no action should be under taken until a new MRP is completed. It's an extremist position and should not be seriously considered.

Thanks for listening.

John and Chris Modin

[REDACTED]
El Dorado Hills, CA 95762
[REDACTED]

(a hard copy of this letter has been sent by mail)

July 2, 2007

Superintendent, Yosemite National Park

P.O. Box 577

Yosemite, CA 95389

Attn: New Merced River Plan

**RE: A3823 (YOSE) Reconstructing Critically Eroded
Sections of the El Portal Road Environmental
Assessment (EA)**

RECEIVED
EPR- REA-07
JUL 03 2007
P. 103
YOSEMITE NATIONAL PARK

Dear Mike,

We recognize the importance of the El Portal Road as a vital link between Yosemite Valley, other park areas, and communities beyond the Park's borders. We also acknowledge that the condition of the road has continued to deteriorate and that there is now at least some degree of risk of sudden and substantial road failure, including possible interruption of sewer and electrical service to the Valley. Failure of the road could apparently lead to sewage spills directly into the Merced River.

We also recognize that there is a wide range of levels of concern regarding this proposed project and that environmental impacts for the preferred alternative

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would include the removal of four oaks, two firs and one "other type of tree". Despite this we concur that public safety is justification for project implementation. We are not aware of *significant* environmental reasons why lane width should not be 11 feet. Eleven-foot travel lanes would improve motorist safety and help to protect bicyclists and pedestrians that dare venture onto this section of road. We understand that no major road alignment changes that alter the basic character of the roadway would occur.

Therefore, given the limited scope of roadway that would be affected and the limited risk to the rivers ecological values, we support the preferred alternative (Alternative 2). This alternative would reconstruct the critically eroded section of the El Portal Road with 11 foot travel lanes, a 3-foot paved ditch with a 1-foot curb between the road and the steep slopes on the north side, and a 1-foot shoulder between the road and the guardwall on the south side. Based on our understanding of the project and the information available, we believe that Alternative 2 would not permanently alter the free-flowing condition of the Merced River, and would protect river values.

Sincerely,

EPR-REA-07
p. 383

Thomas S. Hofstra, PhD
CSERC Staff Ecologist

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Thomas S. Hofstra, Ph.D.
22131 Shamrock Lane
Sonora, CA 95370
(209) 588-2861

Parker Davis
07/03/2007 11:06 AM
PDT

To: YOSE Planning@NPS
cc:
Subject: El Portal Road reconstruction, segment D--comments

I hope this is the right address to send these comments.

see attached:



Reconstructing Critically Eroded Comments--El Portal Road Environmental Assessment.doc

RECEIVED
EPR-REA-08
JUL 03 2007
p. 182
YOSEMITE NATIONAL PARK

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Reconstructing Critically Eroded Sections of El Portal Road Environmental Assessment—Comments

The historical elements and character of the El Portal Road continue to be gutted in this current planning document as they were when sections A, B and C were constructed in the late nineties under similar pretenses. Road character, as defined by Park Road Standards from 1984 as well as the Merced Canyon Travel Corridor District (section 3.10.7.2), has been completely dismissed in crafting the solutions proposed in this EA that exaggerate the imminent failure and safety hazards of the road. The EA also does not acknowledge, at least in my cursory review of it, the role of the Cascade Dam removal and two consecutive high water years in accelerating and/or causing the undermining of the retaining walls that are the foundation of the urgent need to repair this section of road. Ironically, it is that same dam removal that was used to positively offset the negative impacts of road reconstruction in the original El Portal Road EA in 1997.

Some of the dismissed alternatives (section 2.4) would alleviate and address the bulk of the purpose and need for the project and were not given a fair chance. Many of the alternatives were dismissed for specious reasons, such as the Park Roads alternative simply for the 3' shoulders. That width is not a requirement and could be reduced to maintain the character of the road, while addressing all of the issues of road failure and drainage.

The preferred alternatives extend a considerable distance into the riverbed if the scale of the drawings (figures 2-5 to 2-8) is to be believed. In some places it looks like as much as 15'. If this is largely to straighten the road and bring it up to a 30mph and 210' stopping distance, this reasoning is arbitrary and unsatisfactory. Even if the construction is staying beyond the normal high water mark, this amount of river encroachment does not seem to be in keeping with protecting either the meandering of the river or of the road.

My final comment pertains to the Merced River Plan. How, in good conscience and after all the litigation, can we propose to do this construction without a valid Merced River Plan in place?

Thank you for the opportunity to comment.

Parker Davis

Yosemite, CA 95389



Greg Adair
<gregadair1@inreach.com>

07/02/2007 09:40 PM
MST

To: yose_planning@nps.gov
cc: [REDACTED]
Subject: Comment on: "Reconstructing Critically Eroded ..." (the RCESOTEPREA)

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EPR-REA-09

JUL 03 2007

P. 1889
YOSEMITE NATIONAL PARK

Comment on the "Reconstructing Critically Eroded Sections fo the El Portal Road Environmental Assessment" (the RCESOTEPREA)
Submitted by Friends of Yosemite Valley,
July 2, 2007.

We write these comments at the last minute, under protest. We write with the qualification that the National Park Service (NPS) has badly misused the NEPA process by not properly informing the public of this project by timely distribution of the relevant project document. It may or may not be that NPS has broken the law; regardless, the spirit of NEPA, which seeks to engage the public and face the center of potential controversies has plainly been abused. We think that NPS has acted intentionally to restrict the information on this project which it knows to be controversial, from the very groups who have objected to aspects of this proposal, litigated to stop aspects of it, and who are thus closest to the controversy. None of (this project's) three most vocal critics (MERG, Friends of Yosemite Valley, Sierra Club) received this document. Has this become the NPS answer to your promise a couple of years ago that you would seek to deal more fairly and more openly with the public? All of these organizations have made repeated and varied requests to be kept informed of all projects in the park. Friends of Yosemite Valley is persuaded by common sense that this restriction of information is intentional. Concerted requests from many organizations and individuals for an extension, given these extraordinary circumstances, made perfect sense. These extension requests have (apparently) been denied. We say "apparently" because you did not reply to our request for an extension. Your denial arrived (late) from a third party. NPS has not replied to our e-mails. We are being treated as unwelcome members of the public in the NEPA process. This is improper, if not illegal.

As we learned within the last couple of days, the NPS has changed policy regarding how it allows the public to participate in planning processes. Our group, the Friends of Yosemite Valley, has participated in virtually every the public comment period for virtually every Environmental Assessment and EIS since 1997. Ten years. We have requested to stay informed and to be allowed to stay involved. In this regard, we have made various direct requests that the National Park Service include us in all mailings of documents related to projects in the park. For this reason, we were confused and dismayed not to receive the current document. NPS did not respond to our requests for the document when we learned of its existence and asked for it. We finally obtained a copy through a third party, yesterday. This has allowed us a little more than 24 hours to review and comment. We have cancelled work and appointments in order to do this. This treatment is completely improper. NEPA requires that NPS do better. We are concerned citizens who wish to be involved. The law was established so that we and all members of the concerned public would have 30 days to study and comment.

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Under the current circumstances, our ability to comment has been hindered. WE WILL BE UNABLE TO READ, ADEQUATELY REVIEW, OR PROPERLY COMMENT UPON THIS DOCUMENT IN THE 24 HOURS ALLOWED TO US BY THE PROCESS YOU HAVE CREATED. We will submit additional comments later.

We AGAIN request that the National Park Service re-add Friends of Yosemite Valley to its NEPA mailing list.

We AGAIN request to be sent ALL Yosemite National Park documents relative to projects in Yosemite National Park.

Comments:

NPS has repeatedly claimed that the road is "at risk of failure". (In the public press, and most recently in this document. ES-1, and 1-5.). What technical document supports this assertion of the EA? None is cited that we can find. We cannot agree on the face of it that this claim ("at risk of failure") is true in a literal sense, since NPS is currently operating the road. It is open. This means only one of two things: either it is open and dangerous, or it is open and not actually dangerous. Perhaps it means that the road is a little dangerous or a lot dangerous. NPS should at the very least identify the level of actual danger posed to the public, and not rely on general assertions of objective danger, contradicted by the fact that the road is open for travel.

If NPS considers the road dangerous, it should immediately post a sign warning the public of the danger of immanent collapse. In so doing, we would ask that NPS also make available those sources of technical and expert opinion supporting this danger warning. If NPS does not really consider the road dangerous then it should leave the current situation; no warning sign. (The EA should also clarify what is meant by "unexpected road failure". (ES-1). Please consider using other language; after all, the entire premise of the EA is that you do expect the road to fail at any time, which is why you say that you need to do the project. The word "unexpected" makes no sense.).

If the road is actually dangerous, the EA does not disclose the reasons managers have left it open. Please explain this.

The EA appears to rest on a misconception of the "danger" of this roadway. The importance of identifying the actual, objective danger, besides NPS's responsibility to the traveling public, is that a great deal of PR has been over-laid onto the Purpose and Need for this project. The "need" for this project has become interwoven with a discourse concerning the danger of the site in question. NPS made every effort to portray this alleged "danger" in the press, leading up to the release of this EA. But the public cannot know how to comment on this project unless the objective danger is somehow measured. This means it must be separated from the PR and hype which preceded this document. The document does not do this; the PR and the hype about danger are just woven into the "purpose and need" to do this, and to do it quickly, and to do it in a certain way that basically requires major re-engineering and severe impacts. While engineers are likely to love this approach, we cannot agree that this is the foundation of what is reasonable and right in a national park, in the presence of some of the nation's most precious resources. You

propose to destroy that which you cannot replace.

The EA should incorporate discussion of a shutoff valve for the sewer outflow if there is actually danger of collapse and sewage spill. NPS can build such a thing immediately, and should do this in order to lessen the likelihood of spill asserted by the EA.

This project commits NPS to continuing the project on towards Pohono Bridge at the same standard. This is near the heart of our objections, and near the core of the new and different alternative which you need but are avoiding. (You propose 10 or 11 foot driving lanes with paved shoulders and gutters). This leads us to repeat what we have been saying all along, and what the District Court did not accept in 1999-2000. This project is essentially designed to integrate with the purposes and design criteria of the El Portal Road Project of 1998-99, and the various re-design projects for the Valley roadways described in the YVP. They are ALL parts of the SAME design scheme. This project is part of the same design scheme. It is disingenuous to tell the public that this is a "different" project than the one in 2000, because that project was 1) simple and straightforward over the eastern portion; 2) an engineering and impact fiasco at the "choke point", which this project addresses. This project makes the completion of the 2000 proposal, at a later date, over the eastern portion of the segment relatively easy. This project "solves" the most critical design "problems" of the 2000 project. In sum, THIS PROJECT ARISES AS PART OF THE 2000 PROJECT and points to its enactment over the rest of the segment. NPS should not pretend that there is a difference between this project and the 2000 project (ES-2). The preferred alternative uses the design specs of the 1998 El Portal Road project. (1-9). It is all one thing.

The alternatives are illegally narrowed by a dual premise of creating a wider roadway. There is a lack of real difference between the alternatives. NPS should develop such alternatives in an EIS dealing with this subject.

We note that the EA assumes the need to incorporate "crash test safety standards" and "adequate 'shy' distance from the fog line" (1-2). Why? These standards are federal highway jargon. This contradicts NPS policy of maintaining historic roads, and NOT "upgrading" them to modern design specifications. Working with the limitations of old, historic roads in parks is a matter of NPS policy. The basic reason is good, and wise; the special environments found in national parks very often do not support heavy new engineering project without an unacceptable level of impact. NPS is tasked with preserving this place despite the arrival on the scene of a limitless stream of busses from the tour industry, endlessly larger motorized villas, and the stream of service trucks which also seem to grow larger with time and based on the commercial and administrative pressures in the Valley. You are tasked with doing something different, and doing it based on the existing Level of Service (LOS) of the road system, not building bigger, higher capacity roads to accommodate all that you want. See 'NPS Management Policies'. The use of Federal Highways specs is a bad premise for road projects in Yosemite, especially in the confined space of the Gorge, the Valley, and various approach roads for that matter. The EA desperately needs different premises in developing alternatives.

Federal Highways specs are a terrible premise for this road project, because it radically narrows

the range of alternatives; NPS cannot, with the Federal Highways design premise in mind, devise a project which simply bolsters the current roadway but maintains it as a narrow road. This is the most obvious un-considered alternative that comes to mind, by the way ; keeping it narrow would avoid many new impacts, even if it were needed to re-engineer aspects of the steep road prism). Rather, the Federal Highways design premises embedded in the alternatives here leads necessarily to a wider road, and the need to either; 1) move the road prism out towards the river channel; 2) blast the northern cliff face; 3) both "1" and "2" ; 3) destroy the oak tree; 4) all of the above. The incredibly narrow range of destructive alternatives is exactly what the EA propose; the key element is un-critical acceptance of Federal Highway design standards.

None of the alternatives you present propose less impact and a narrower alignment. One should. No alternative was developed here which would enhance the ORV's of the Merced in this segment (you could call it "The WSR-Compliant Alternative"). One alternative should.

The District Court in 1999 made it clear that, in the absence of a plan to protect the Merced WSR from exactly these kinds of project impacts, NPS should not proceed with these design standards, which will impact the Merced. The court, and the plaintiffs in *Sierra Club v. Babbitt*, hoped for a fundamental revision to this scheme which would protect the Merced. In the meanwhile, we have encouraged NPS to make every effort to do those repairs which might be needed to the road. We had hoped that NPS would devise an environmentally conscious approach which would stabilize the existing road in its current alignment and width. That has not happened. Rather, NPS has waited for the arrival of an opportune time to enact a project which will clearly add new harms to the Merced WSR, despite avoidance of its ongoing responsibility to protect the Merced first.

We note in passing that the NPS has misjudged the need to widen the road. It is not true that the current configuration requires drivers to "drift over the fog line". The pictures on (p. 1-7) show drivers of trucks (a garbage truck; a gravel delivery truck ; a logging truck -!?) avoiding the center line. But they do not demonstrate that this is a required aspect of their driving.

Additionally, based on NPS description of the possibility of "mirror strikes" (2-3) the simple action for this section for roadway might be to ask drivers to retract the driver-side mirror. In any case, a possibility of oversized vehicle mirrors touching is not a reason in our mind to greatly widen a road so as to severely impact a designated Wild and Scenic River, but rather are reason to restrict access for such super-sized vehicles. It is also apparent in the pictures that there is adequate room to avoid the center line. Our experience of driving the road with trucks tells us the same. One aspect of this which NPS should immediately address is that the speed limit, which used to be 25 mph, was at some point apparently raised to around 30 or 35, at least unofficially. The situation is ambiguous due to a lack of signs in both directions. Put it back to 25, or 20, and these drivers can easily avoid crossing the line. In this regard, we are thankful that the drivers described on (2-3) had the sense to drive past each other slowly; why does NPS perceive this as a "problem"? A lower speed limit helps this road function as-is. A lower speed limit should become an aspect of another alternative which considers not widening the road.

Again, concerning speed; based on the current design, the safe stopping speed is 20 mph. Why did NPS raise the speed? Lowering the speed should have been considered as part of an action alternative. We see, inexplicably, that *raising* the speed to 30 mph is common to each alternative, based on re-engineering of the curve. This is wrong and contrary to the agency's own

description of the root problem. NPS should NOT re-engineer to accommodate drivers' desire to go faster; rather, it should perceive speed limits as a helpful component of managing safe conditions on roads whose character, alignment, and geometry the agency preserves. We note again that this higher-volume of faster traffic designs for a capacity increase. This is improper unless this has been completely dealt with in a legal WSR Plan.

As we write this, there is no legal plan to protect the Merced WSR. Moreover, the NPS has not revised the Yosemite Valley Plan to reflect additional protections to the Merced WSR based on a legal plan to protect the Merced. In light of this, the production of this document is premature. It is not based on a legal plan to protect the Merced. This document cannot measure its cumulative impacts to the Merced WSR because cumulative impacts have never been dealt with in a complete, legal plan for the Merced. This is a striking example of piecemeal planning which would hide its cumulative impacts to the Merced Corridor. The plan will increase the level of service of the road, and in this way increase the foreseeable capacity of travelers coming into Yosemite Valley, despite the need to first address this question in a plan to protect the Merced. (This is not "nit-picking": the very "problem" of a low LOS regarding oversized busses -- tour busses --- which NPS proposes to "solve" here is acting today as an effective restraint to capacity increases. NPS here proposes to remove this restraint and open the door to higher numbers of busses and other oversize vehicles. The defunct 2005 Plan expressly allows higher volume on this roadway, in the form of higher tour bus traffic.). The NPS must deal with the capacity of the Merced corridor and the Valley before it commits to capacity-increasing design changes on the road system.

NPS has characterized the court ruling modifying the 2006 injunction as permitting work on the Valley Loop Road, and drawn an analogy to the current project. (12-9) The analogy is improper, based on what NPS has said about the two projects. In this EA, NPS asserts that "...the District Court accepted NPS arguments that the need to correct poor road conditions, safety problems, and other drainage problems outweighed plaintiffs concerns about potential project impacts." (1-9). We would remind NPS that the court received multiple assurances from NPS that the Loop Road work was (to paraphrase) "strictly confined to an existing alignment and was a zero-impact proposition confined to the culverts". Though we disagreed with the NPS assertions about the Loop Road work, the NPS made them to the court. By contrast, the current project says something completely and rather dramatically different. It asserts that it will proceed with direct and large impacts to the bed and banks of the Merced. It discloses that it will work extensively to build a new roadway within and immediately adjacent to the river channel. If anything, its very premise is that it **must** alter the free flow of the river for a higher good. A better analogy for this project is to the 1999 El Portal Road Project. While the El Portal Road EA did obscure and deny its outrageous impacts, the pictures and testimony were ultimately not confusing to the court. It was an outrageous project in a protected river which had never had the benefit of a protective plan. The current EA improperly alludes to the Loop Road work, and the Courts' conclusions about that. Here NPS should instead draw the correct analogy between the 1999 project and this project. The EA should do this, and correctly warn the public of severe project impacts to the Merced WSR. Road work ahead: bulldozers, dynamite, re-engineered river embankments.

NPS intends to install roadways with 4" of new asphalt. As disclosed elsewhere, this is intended to accommodate a new generation of heavier vehicles. We think that rather than incorporate such design specs, NPS should restrict these heavier vehicles. This project quietly incorporates the infrastructure for a capacity increase by making the roads fit for an unregulated number of tour industry busses.. Again, we think this is wrong since NPS has never fulfilled its obligation to deal with capacity issue this in the manner set forth by the WSRA. The 4" asphalt surface is not justified until and unless NPS has prepared a WSR Management Plan which deals with the capacity of of busses and heavy vehicles in Yosemite's Merced corridor.

We do not think that Alternative 2 is the "Environmentally Preferable Alternative". (ES 2-3) . An "environmentally preferable:" alternative was easily identified from comments recieved under scoping; but a true environmentally preferable alternative was never developd. Many of the concerns we raised here were received by NPS during the Scoping Period. (ES 1-11). Yet NPS did not develop an alternative for permanent stabilization or re-engineering of the road base which *does not* expand or widen this section of Roadway (that is, all of the alternatives presented are in keeping with long-standing plans to widen Segment D: NPS owed the public at least one alternative which did not follow this impact-filled mistake). Not widening would have been environmentally preferable, eliminating alleged health and safety issues, while fully protecting the river under the existing environmental conditions and the existing alignment and an width. NPS failed to consider this very obvious and protective alternative which was raised during scoping. See ES 1-10. 1-11).

NPS should not remove the historic guardwall. It is , at this point, almost the last guardwall which remains from the All Weather Highway. Following the wanton destruction of the lower El Portal Road rock wall, we think there is a forceful argument for retaining he current guardwall no matter what. Again, why is there not a single action alternative which does this. (See our comments, above, concerning the lack of wisdom of a project in this location based on FHWA specs).

Impacts

The project begins with up-to-date, super-modern engineering, and works its way backwards to environmental damage. It cares first and last for engineering. The values and qualities of this segment of the river are barely an afterthought.

Like it parent document, the El Portal Road EA, this document is actively hiding its impacts. Vegetation and wildlife will be preserved "wherever possible" ? We have heard this before. It is utterly hollow. In 1999, it was shorthand for saying that the project mangers retained the right and privilege to do what they wanted when and where they wanted. The result was sickening. This EA needs to carefully quantify its impacts and disclose them for public review. The law requires it (see comment below; EIS is required). ,

Schematic drawings and vague promise to avoid trees , cliffs, and the OHWM are not enough. That is why this document should be a full EIS. There is far too much potential for irreversible damage form a project of this magnitude absent an EIS.

The "salvage" of the historic fabric / rock-wall (2-6) is a ruse and you should admit this. The last time the rock wall was "re-used," it was as fill, in 1999. The whole thing was used as trash to support the re-alignment. If you intend to re-use it meaningfully (as historic "fabric"), please say where you are putting it, who / how / where the mortar will be cleaned from the stones; where it will be re-constructed. Otherwise please admit that you intend to dump it. Quit hiding from this bad behavior; the value of doing an EIS is again demonstrated; you need to provide yourselves with details, as much as you need to provide the public with details.

"Standard mitigation" for historic fabric, as you know, amounts to taking pictures before the thing is destroyed. (2-6). Please say so.

No alternative should consider using the offensive, fake stone facing anywhere in Yosemite, ever again. It simply is far below the dignity of this place. This decision alone shows how misguided the project is. If a re-engineered project (see our other comments) cannot deal with the labor requirements of a traditional dry stack for the road embankment, then it is not worthy of Yosemite. We are surprised that there are so few of you who were not really shocked by how cheap and bad these techniques looked in the Gorge. This stuff is NOT worthy of Yosemite.

The project will cause severe disruption to visitors and to Park Operations. It will have severe impacts to the livelihood of businesses in Mariposa, who will be faced, for about a year (you should admit that the project time frame is subject to change given your decision to work in river channel in "non-peak visitation periods, which can only mean winter) with a human decision to close the road and compound the economic misery in Mariposa resulting from the Ferguson Slide. The EA should at minimum consider that this project is out of order until Mariposa has survived the Ferguson problem. The EA glosses over this obvious, enormous socioeconomic impact to Mariposa. Disclose it fully in an EIS.

We object to the new term "specimen tree". What does that mean? As importantly, what does it imply? Is it that, because it is a "specimen", it is separate from everything natural surrounding it? Is it that we are watching it, as if expecting it to die under the microscope? Why did you invent this weird term "specimen tree"?

We like that tree. We are glad that someone sees it as valuable, and as an element of the "Merced Canyon Travel Corridor District." (What is that, by the way, and when did you invent that?).

We think you should save the tree because it appears closely tied to a series of valuable ORVs for this segment of the Merced WSR. (We will spell that out if we ever have more time). Besides, if left to live, this tree should re-propagate and undo some of the destruction that road building is doing in Yosemite to this day. Leave that tree alone under every alternative.

You are proposing to damage (dynamite/remove) the cliff. This is an ORV of the Merced (Geologic, narrow canyon transition, etc.) and should be left alone. Moreover, cutting at the cliff creates new danger:

"The National Park Service proposes to upgrade this road to two 11-foot lanes. No planning or design has been completed on this proposal. There are numerous questions, for example: what impact will cuts in steep canyon walls have on future avalanche potential?" "FHWA rates the condition of this road as fair. However, fully 40 percent of the roads in the park system are

currently rated as poor or failed. In fact, the Arch Rock road has not been identified as the top road priority in Yosemite by the National Park Service." (Trip Report for Field Hearing on Yosemite Floods and to Conduct a review of the \$200 million Emergency Supplemental Request for Appropriations for Yosemite, conducted by the U.S. House of Representatives, 3/26/97)

There is a safety issue no matter what, and the EA does not adequately explore it. (See comment on likelihood of falling rock from cliff disturbance 2-33).

The EA glosses over the safety issue (2-12). What is the likelihood of increased deadly accident from increasing the speed on the road? Discuss this in an EIS. The EA represents that the preferred alternative, which apparently adds a shoulder where tourist may be encouraged to park and pedestrians to walk, combined with increased travel speed, will somehow improve pedestrian safety. We disagree. The negative impacts to visitor safety should be re-considered in an EIS.

We do not think that the notion of a "catchment" for rock-fall along a road shoulder makes any sense. (3-11). We are not impressed by the thinking here. While it might be nice if all the rocks went where they were supposed to, we are sure they do not. The No Action Alternative and all the action alternatives share the identical problems of rock-fall hitting the roadway. (What measures are proposed to keep visitors from using the "rockfall catchment" as an obvious sidewalk, by the way?? None are described.).

The application of "best management practice"s (3-12) never stops damage. This project needs an EIS first, not standard "mitigations". The project is calling for far too much excavation in and around the river channel to safely use standard mitigations. We object all this earth moving under every alternative. The idea that just writing an EA is going to make this scale of impacts OK, absent a WSR Plan, is not acceptable to us. How can removal of 3800 cu. yds of rock and soil improve the resource? This is what the project proposes. Nonsense. Such double speak makes us say all the more; a project of this magnitude needs different premises (not widening, not a highly engineered, faster road), and will need an EIS. You need to think differently about this, and you need to prepare an EIS.

The NPS is proposing to add foundation footings which we believe lie within the Ordinary High Water Mark. The document seems to say the opposite, but there are statements which seem to indicate that it is within the OHWM. Frankly it is unclear, and the schematics are not helpful. Yet this work is entirely within the bed and banks of the Merced WSR. Does the NPS believe that it can do this without a legal plan to protect the Merced from new construction impacts? We think this points to the need for a management plan to protect the Merced to be in place before such a project is considered.

A project of this magnitude requires an EIS:

In 1999, the District Court said: "...if the final form of work on Segment D is such that it would significantly affect the quality of the human environment," the NPS must prepare an EIS. As we noted above, the correct analogy to this project is the outrageous and illegal destruction caused by the project in the Merced Gorge 8 years ago. The current proposal is the progeny of the most destructive and controversial park project in a generation. The 1999 El Portal Road Project hid

impacts, and used slight of hand and reference to vague "mitigations". This left the public and park resource managers in the dark, until it was too late. There is time here to correct the error from that dark time, which this document tragically repeats.

First, the EA should be withdrawn. An EIS should be prepared, and should follow the preparation of a plan to protect the Merced Wild and Scenic River.

The current project is premature from this perspective. But it is also incredibly ill-timed given the grave economic threat to Mariposa caused by the Ferguson Slide. Until that problem is solved, we seriously question the judgment of the National Park Service, who would enact a second, man-caused closure of Yosemite from the west. These are additional reasons the EA should be shelved. In the interim, without fail, the Park Service should diligently repair any and all aspects of deterioration of the current road, and provide for effective, ongoing, and safe access to the Valley. All who love Yosemite and believe in people's right to see it would agree with this.

This should not mean that the NPS writes itself a blank check. Friends of Yosemite Valley feel that Yosemite deserves a safe road from the west. But it does not need a wider road. It does not need a road which expands impact in the park and further harms the river. This project as described does both of these things, and as such it should be rejected. NPS should engage in the planning steps described: preparation of a legal plan for the Merced WSR; needed Revisions to the GMP and re-writing of the YVP; an EIS treating the subject of road reconstruction at Segment D. In an EIS, NPS should propose a repair which both protects and enhances the Merced River.

Greg Adair,

for Friends of Yosemite Valley



07/03/2007 09:36 PM
GMT

To: yose_planning@nps.gov

cc:

Subject: Attn: Reconstructing Critically Eroded Sections of El Portal Road

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EPR-REA-10
JUL 03 2007

p. 1064

YOSEMITE NATIONAL PARK

Dear Yosemite National Park Superintendent

Attn: Reconstructing Critically Eroded Sections of El Portal Road

Regarding Chapter 5. 2.5. American Indian Consultation 5-4 and pertaining chapters.

The Mono Lake Paiute Indian Community has reviewed Chapter 3.0: Affected Environment and Environmental Consequences. We would like to know which tribes were contacted and consulted with. Why was there no identification of which tribal entities Yosemite National Park consulted with? Who were these tribes? Tribes are clearly defined by the Bureau of Indian Affairs. A non-profit is not considered an official tribe or a nation. Non-profits should not be in charge of NAGRA if there are other federally recognized tribes in the seven tribal consortium. A letter to by pass NAGPRA rules submitted by Tuolumne Me-wuks is not sufficient to by pass the NAGPRA law in regards to burial and other archaeological matters. There are other official federally recognized tribes with ties to Yosemite other then the Southern Sierra Miwuks. So why are they in the lead?

Miwuks are not Paiutes or Monos and should not be in charge of all burials, ceremonies and other NAGPRA matters. If there are known Paiutes and Monos in Yosemite and the area then each tribe should have their own spiritual and cultural person come in and do their own religious ceremony. There were known Paiutes buried in that area in question.

Since Yosemite National Park is paying the Southern Sierra Miwuks to carry on religious ceremonies and other functions the same equal treatment should be given to the Paiutes, Monos and Yokuts in the seven tribal consortium.

Why is there a chapter called 'Chapter 3.3 Impact Topics Dismissed From Further Analysis'? There is still information to be considered that should not be dismissed and should still be introduced. For example Chapter 3.3, under Socio-Cultural Resources, Historic Properties, Traditional Cultural Properties, page 66 and page 67, of Yosemite National Park Service wrote **they had consultation with three tribes**. Which three tribes were those? We of the Mono Lake Paiute Indian Community would like to know which three tribes you were consulting. Please explain which tribes those were. Remember that non-profits are not tribes. Current and former Yosemite National Park Service employees are not a tribe, but only current and former Yosemite National Park Service employees.

Regarding 3.10.7.1 Overview of Human Occupation, on page 145, under 3.10.7 Historic

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Properties, your narrative states;

"When Euro-Americans first entered Yosemite Valley in 1851, the Indians living there were most likely Southern Sierra Miwok; however, parties of Mono Lake Paiute and adjacent Miwok groups would periodically enter the Valley for trade (Barrett and Gifford 1933). The upland areas of the Merced River drainage were frequented by Southern Sierra Miwok, possibly Mono Lake Paiute, and at least traversed by Western Monos and possibly Chukchansi Yokuts. El Portal was inhabited by Miwok people as well (NPS 2003)."

Yosemite National Park Service is using material and references written in 1933 and 2003, which are incorrect and biased.

The only man to meet Chief Tenaya and his band to write a major book about everything we know about the Indian people living in Yosemite was Dr. Lafayette H. Bunnell. He entered Yosemite in 1851 with the Mariposa Battalion, something Gifford, Barrett and Powers never did. Dr. Bunnell's book is called "Discovery of the Yosemite, and the Indian war of 1851, which led to that event" which you sell in your own bookstore and considered the bible of Yosemite Indian history.

Dr. Bunnell wrote that Chief Tenaya was the founder of the Paiute Colony of Ahwahnee, that Chief Tenaya spoke Paiute, that Chief Tenaya was born at Mono Lake of an Ahwahnee father, a tribe unlike any surrounding tribe, and a Mono Lake Paiute mother. Chief Tenaya grew up at Mono Lake and married a Mono Lake Paiute woman and had children, all this BEFORE he entered Yosemite Valley. From a handful of survivors Chief Tenaya's father took his people to Mono Lake, a known Paiute area, during the same time that Paiutes and Miwoks were fighting. Tenaya's real name is Tenieya and in C. Hart Merriam's notes he documented that Mono Lake was also called Teniega Bah. That Tenaya stated that the people living in the west feared him, yet the Mono Paiutes bragged about his war exploits (who was Tenaya fighting with living in the western side?). Dr. Bunnell wrote that Tenaya's group was made up of Paiutes, Monos, and some 'outlaws' from the western tribes. Interestingly Dr. Bunnell never mentioned which tribe these 'outlaws' were from, but he definitely wrote Chief's band were Paiutes and Monos.

Dr. Bunnell did write that those who became the Miwoks were from Chief Bautista's tribe, the same Chief Bautista who was the one who called Chief Tenaya and his band "They are Killers" or "The Grizzlies" or the "Yosemites". Chief Bautista also assisted James Savage and the military. Bautista was James Savages good friend and taught Savage the Miwok language. Chief Bautista told the military he was afraid to enter Yosemite Valley and the Miwoks were the gold miners for the whites and Jim Savage. During the second expedition the Miwoks were the scouts who helped find Chief Tenaya and blocked his escape. That is all documented. They also signed the Fremont Treaty BEFORE they captured Tenaya.

Dr. Bunnell also wrote that after the death of Chief Tenaya the remaining survivors of Chief Tenaya's band were taken back to Mono Lake in 1853 and the only Indians they saw

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in Yosemite were the Paiutes collecting acorns. NO MIWUKS.

The year before Chief Tenaya's death, in 1852, James Savage was killed in a dispute with a man named Harvey, and Jim Savage's "Indians" wailed and cried over his body "Our white father is dead". That would most likely be the Miwoks since they worked for him digging gold. It sure wasn't the Paiutes.

Mono Lake Paiutes, which includes Benton, Bridgeport Paiutes, and Bishop Paiutes have their own dialects and all three groups entered Yosemite, Hetch Hetchy, like the Miwuks. So each Paiute band should be mentioned and not just 'adjacent' Miwuks. Each one should be mentioned.

We can also trace all the so-called modern day Southern Sierra Miwuks back to either Chief Bautista's band, who were not the original band of Chief Tenaya, misguided Mono Lake Paiutes claiming to be Miwuks, or Casson-Chukchansi Yokuts who were from Madera and went to work for Yosemite National Park later on. The later make up the majority of the 'new' Southern Sierra Miwuks.

We also believe that the modern day Anglo 'scholars' writing the Miwuk misinformation have their own agenda. We know one is an honoree Miwok and the other was married to Miwok. That is a conflict of interest. Where are the Paiute scholars?

The Southern Sierra Miwuks, we believe, are more interested in acquiring a big casino outside of Yosemite than the true history of Yosemite or they would not be repeating misinformation.

This is why we also disagree with the new Indian Center being dedicated to the Southern Sierra Miwuks. The original Southern Sierra Miwuks were really the traitors to the original people of Yosemite.

You discriminate against the true people of Yosemite for those who aided the greedy Anglo gold seekers, who wanted to dig up Yosemite, just like today.

Yours truly,

**David Andrews – Chairman
Yosemite-Mono Lake Paiute Indian Community**

**Sacramento, CA 95816
916-930-0761**

**CC: Bishop Paiute Tribe
CC: Benton Paiute Tribe**

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CC: Bridgeport Paiute Tribe

July 3, 2007

RECEIVED
ZPR-REA-11
JUL 03 2007
P. 109
YOSEMITE NATIONAL PARK

Superintendent, Yosemite National Park

ATTN: Reconstructing Critically Eroded Sections of El Portal Road

P.O. Box 577

Yosemite, CA 95389

To Whom it May Concern:

I am filing these comments under protest. Not only is the planning process for the Reconstructing Critically Eroded Sections of El Portal Road Environmental Assessment (El Portal Road EA) suspect, but here is a project that is almost *in* the Merced River and there still is no legally valid Comprehensive Management Plan.

As you are well aware, NEPA was designed primarily as an information-producing statute to introduce public participation into arenas from which it had been absent. Even though you as the sponsoring federal agency are granted ultimate discretion with respect to project implementation, NEPA provides a framework to guarantee procedural compliance for citizen participation. With respect to the El Portal Road EA, that process has been tampered with—if not violated.

My comments focus on this on-going lack of credibility.

CHRONOLOGY

1/29/86 Memo from the Manager of the Denver Service Center through the Associate Director, Planning and Development (WASO) to the Deputy Director of the National Park Service; authored by Gerald D. Patten with cc to Regional Director of the Western Region and the Superintendent of Yosemite National Park.

"The National Park Service agrees with...(the) assessment of the Highway 140 corridor being steep, winding and too restrictive to consider modifying to

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accommodate shuttle buses. The Regional Director's recent position of opposing any road widening on this section and the additional traffic generated by the move to El Portal negates any future staging proposals along the route." The memo is in response to statements made in an October 18, 1985 release ("Immediate Action to Reduce Automobile Congestion in Yosemite"): The Highway 140 corridor provides serious problems for a staging area because of the steep, narrow winding road and the undesirability of modifying that road which would have very negative effects as well as being very expensive. For safety reasons, oversized vehicles should be restricted from Yosemite. Trip lease provides the process to regulate bus size before they arrive at the Park."

1987 Removal of Cascades Dam EA: "[t]he removal of the dam structures below the streambed level was rejected as being excessive because the potential effects on the environmental and the lateral support of the roadway could be adversely affected." (A subsequent 1989 report discussed several serious impacts of removal of the dam.)

3/26/97 "The National Park Service proposes to upgrade this road to two 11-foot lanes. No planning or design has been completed on this proposal. There are numerous questions, for example: ...what impact will cuts in steep canyon walls have on future avalanche potential?" "FHWA rates the condition of this road as fair. However, fully 40 percent of the roads in the park system are currently rated as poor or failed. In fact, the Arch Rock road has not been identified as the top road priority in Yosemite by the National Park Service." (Trip Report for Field Hearing on Yosemite Floods and to Conduct a review of the \$200 million Emergency Supplemental Request for Appropriations for Yosemite, conducted by the U.S. House of Representatives, 3/26/97)

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8/22/97 Final El Portal Road Improvements EA released. The project involves widening 7-1/2 miles of the 70-year old mountain Road from the Park's western boundary on Highway 140 into Yosemite Valley up to the Pohono Bridge. This is the first Design-Build project in the National Park System. A Design-Build project allows construction to begin *before* project design is completed. The contractor has full responsibility for the design, construction, and mitigation. (FONSI signed 8/28/97)

3/17/99 "At this writing, the Lower Merced River Canyon, a designated Wild and Scenic River segment in Yosemite National Park, is being logged, dynamited, cut and filled. The North slope of the River is being rebuilt with long stretches of concrete reinforced embankment reaching in many places to the very edge of the water's run." (Letter from late-Environmental Icon David Brower to then-Secretary of the Interior Bruce Babbitt referring to the road project as vandalism and asking that it be stopped immediately.)

7/12/99 U.S. District Court finds the NPS in violation of Section 1274(d) of the Wild and Scenic Rivers Act which requires preparation of a Comprehensive Management Plan for those segments of Merced River designated as being part of the National Wild and Scenic Rivers System. The Court also enjoined all further work on Segment D, except sewer repairs and slope stabilization if necessary to prevent erosion. The Court also stated: "...if the final form of work on Segment D is such that it would significantly affect the quality of the human environment," the NPS must prepare an EIS.

2/2003 The Cascades Dam Removal EA states "...although lateral movement of the channel to the north would be minimized by the presence of El Portal Road." Appendix E (Cumulative Impacts), El

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Portal Road Improvement Project—Cascades Diversion Dam to Pohono Bridge states: "The project would not be implemented until after the removal of the Cascades Diversion Dam, in order to allow the river channel to stabilize before design alternatives are developed."

QUESTIONS:

Following the Court injunction, why was the Park so intent on removing Cascades Dam knowing it could potentially harm El Portal Road? Was the intention as stated above—to allow the river channel to stabilize so that design alternatives could be developed for Segment D and the 120/140 intersection?

As predicted, did removal of the Dam followed by a few wet years indeed undercut El Portal Road resulting in the current deteriorated condition of the Road? Existing literature warned of such a risk as far back as 1987; even the 2003 Dam Removal EA was counting on the road to "minimize" (if not control) lateral movement of the channel. Did the Park Service actually create the situation that currently exists as a result of bad planning?

If removal of the Dam did indeed contribute to the "need" to reconstruct 1350 feet of the Road, was this a strategy so that the Park could incrementally develop Segment D piecemeal, one project at a time, while avoiding a full EIS detailing all cumulative impacts? Isn't this just more of the Design-Build process—remove the Dam (which was part of Segment D enjoined by the Court) to allow the river channel to stabilize in preparation for development of design alternatives for the road; let the newly released free-flow of the River facilitate a "state of emergency" for the Road enabling reconstruction of 25% of Segment D to the specifications the Park wanted in the first place? Will the completed section then serve as a precedent and justification for hyping a new state of emergency on another 25% of the road? All the while Segment D moves forward without an EIS.

How can widening and realignment of the Road be deemed environmentally destructive to the Merced River Canyon and inappropriate for any shuttle bus program but 10 years later be forced through as a great idea?

BEST MANAGEMENT PRACTICES ARE MEANINGLESS

Best Management Practices (BMPs) are defined in the El Portal Road EA as: "Effective, feasible (including technological, economic, and institutional considerations) conservation practices and land- and water-management measures that avoid or minimize adverse impacts to natural and cultural resources. BMPs may include schedules for activities, prohibitions, maintenance guidelines, and other management practices." It was horrifying to see the damage to the Merced River and the Canyon as a result of the construction of Segments A, B, and C. We've also seen a number of sewage spills that were construction-caused. BMPs are meaningless without committed Park Service supervision and oversight—which doesn't occur. And though there is frequent reference to such "Practices" as being the answer to reducing temporary and permanent impacts to the Merced River in the current El Portal Road EA, it appears "specific BMPs will not be determined until final design."

Is what the public being asked to review in the El Portal Road EA NOT the final design?? Is it back to the Design-Build make-it-up-as-you-go-along mode??

And why aren't BMPs included now as they are in other planning documents?? Is it because Design-Build leaves the contractor in charge??

MITIGATION JUST A BEST-GUESS AND NOT ENFORCED

A review of NEPA literature states that a shortcoming of NEPA is the agency focus on preparing the document. Once the document is completed, evaluation of mitigation measures and whether they worked (or not) rarely takes place. Additionally, there is no oversight for mitigation, no accountability on the part of the agency, and no levy of penalties should poor decisions cause harm to the environment; it appears to be a self-policing activity. And yet mitigation appears to be the line in the sand as to whether compliance should be in the form of an EA or and EIS...

For example, mitigation for the El Portal Road widening project (segments A, B, and C) reflected great expectations with respect to revegetation of areas blasted/cut/filled, but the end result was an explosion of invasive species (including Yellow Star Thistle) brought in and spread throughout the area. The Park claims Segments A, B, and C were completed in 2000. But that project should never have been considered complete until the additional invasive exotics both in kind and in number were successfully removed and the cut/fill/blasted areas revegetated according to the revegetation plan presented as an integral part of that project; to date that plan has not been successfully completed per the schedule. The current El Portal Road EA now wants to widen 25% of Segment D

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which will create a welcome mat for further spread of invasive exotics—in fact this issue is acknowledged in the EA (page C-2).

Quoted from a recent article (3/11/04) about Bitterroot Restoration, the company responsible for much of the revegetation going on in the Park, including the aftermath of the Cascades Dam Removal:

"As far as I know, the techniques we came up with had never been used before," McAdoo said. "It will be interesting to monitor the project to see how well they work." The real challenge of the dam-removal project, McAdoo said, was working with a dynamic river system doing something that hadn't been done before. He hopes what they learn from the California project may be applicable to the upcoming task of removing the Milltown Dam near Missoula."

Mitigation is basically an experiment—a chance to apply new techniques never used before. Why are we allowing a contractor to experiment with Yosemite as a way of building a resume for his next job?

The current El Portal Road EA mentions removal of an historic specimen tree claiming mitigation will be to collect acorns and "hope" they will grow. And if not, once again a natural/cultural resource takes a "hit" in favor of overbuilt infrastructure designed to accommodate buses, RVs, and construction vehicles.

CUMULATIVE IMPACTS ANALYSIS AVOIDED

Environmental documents are supposed to contain a rigorous analysis of past, present, and foreseeable future projects and how they relate to the project currently under consideration. The El Portal Road EA briefly mentions projects at the end of each element in Chapter 3 and includes an Appendix of projects w/descriptions but fails to include any in-depth analysis as to their collective impact on the Road proposal.

From the Visitor Experience perspective: will visitors have to wait in a traffic tie up for the El Portal Road projects, then continue a few miles and hit another traffic tie up with the Valley Loop Road project, and then maybe even hit a 3rd tie up for a utilities project installation? What is the coordination between the Ferguson Rockslide construction and the El Portal Road construction—will visitors on Highway 140 get hit with both at the same time? Both projects are on/in a Wild and Scenic River—what are the impacts to the Merced River?

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What is the relationship between the current El Portal Road EA and the Segment D project mentioned in the Yosemite Valley Plan? The current EA is clear that the projects are not the same—but they are in the same area and their cumulative impacts should be analyzed.

The Valley Loop Road will have an asphalt batch plant. The El Portal Road EA also mentions an asphalt batch plant. Will these be individual batch plants or will both projects be using the same batch plant—as in a super-sized version.

The El Portal Road EA mentions "parking lots, both within and outside of Yosemite Valley. Parking lots outside the valley could be used to intercept day visitors and shift those visitors to Valley-bound shuttle buses." There is also discussion of YARTS; in fact a major reason given for widening/realigning the El Portal Road in the 1997 EA was "the long-term need for buses to use the road as part of a regional transportation system." Yet the Park excludes YARTS from the Yosemite Valley Plan EIS to avoid environmental analysis as to how YARTS integrates with the Park's transportation plans. The Merced River Plan which is supposed to establish user capacity requirements for Yosemite Valley has been declared invalid by the Courts. A major component of the (also invalid?) Yosemite Valley Plan, which tiers from and relies on the (invalid) Merced River Plan, is the busing scheme. And the 1980 General Management Plan from which all implementations plans tier is 27 years old, outdated, and has yet to be amended with a valid Merced River Plan. Meanwhile, a multi-million dollar transit system, cobbled together in a piecemeal fashion with substantial financial support from the Park and the Department of Transportation, is being used as justification for permanent changes in Park infrastructure and Park access to serve a yet-to-be-determined visitor capacity—without in-depth environmental analysis of the cumulative impacts not only with respect to El Portal Road in particular but Yosemite Valley as well.

ADDITIONAL COMMENTS:

The fact that the Valley Loop Road was cleared to proceed by the Court is being used as justification to proceed with this El Portal Road reconstruction. There is a huge difference. The Valley Loop Road is adjacent to the Merced River and the Park assured the Court that paving would stay within the existing road prism; the El Portal Road is practically *in* the River—even requiring cantilevering. **There is no way this project as identified in the El Portal Road EA should be allowed to proceed without a legally valid CMP in place.** This is an entire reconstruction of 25% of Segment D including widening, removal of 3,800 cubic yards of soil and rock, realignment and more.

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Why was it necessary to hire Southwest Planning and Marketing, a firm specializing in tourism and real estate, to market this project? If widening and realigning 25% of Segment D were good for the resources and a positive for the Park, there would be no need to hire a subcontractor with the capabilities to do market research (including surveys and focus groups), marketing strategy, feasibility studies and business plans, meeting facilitation, community planning, strategic planning, demographic forecasting, and impact assessment.

The EP Road EA does not offer a reasonable range of alternatives. Why is there not an alternative that would reconstruct the road *without* widening, realigning, or removing the centuries old oak? This oak stands where there is no undermining by the river. This stretch of the El Portal Road may be narrower than segments A, B, and C but unlike those stretches of the El Portal Road it is relatively flat. The "National Park Service Before and After Safety Study" prepared with FHA (not included in the EP Road EA) states on page 42 that curved and level areas actually have lower accident rates than even the straight and level ones. The same study also demonstrates that "roadway condition" such as narrowness is the least likely of contributing factors to driving accident rates on the El Portal Road (p.43). Also, if the road were to be widened here, the speed of travel would increase; this would most certainly increase wildlife mortality in this stretch of road and would increase the severity of any traffic accident.

American Indian consultation for this project appears to only involve consultation with the American Indian Council of Mariposa County, Inc. (Southern Sierra Miwuk Nation) and the Tuolumne Band of Me-wuk. Where are the other tribal representatives? Do they even know about this planning process?

"Justification for Use Of The Floodplain" on page. D-3 describes why NPS needs to do road construction for this project in the 100-year floodplain, and the reasons seem primarily *economic*?

CLOSING THOUGHTS:

The current assembly line of plans proliferated by the Park has turned commenting into a full-time job. The question is always: so do comments even matter? I'm reminded of a passage from "Preserving Nature in the National Parks," by NPS historian Richard Sellars with respect to the Vail Agenda and NEPA.

"...the Vail Agenda revealed...the Service's refusal to give full-faith compliance to the National Environmental Policy Act..." "...the Agenda called into question the increased

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'legislative requirements' for the Service—especially the public involvement requirements stemming from the National Environmental Policy Act and related laws. Although it recommended that the Service 'improve the public involvement process,' its discussion of the issue actually showed little genuine enthusiasm. Perhaps reflecting on prior experience, it stated that the Service would accept increases in public involvement 'either willingly or by legal and political coercion.' ...it declared uncritically that 'many park managers...would prefer to make decisions about resources with little interference from the public that owns them.'"

This latest experience epitomizes that attitude: the communication cover-up, the delayed distribution of materials, the overwhelming proliferation of plans in a short time with quick turnaround for comments, limiting the scope of comments to be considered, plans skillfully "canned" for quick passage using all the right buzz words but short on rigorous analysis, and more.

UNTIL THERE IS A LEGALLY VALID COMPREHENSIVE MANAGEMENT PLAN FOR THE MERCED RIVER IN PLACE AND AN ENVIRONMENTAL IMPACT STATEMENT FOR THE ENTIRETY OF SEGMENT D/EL PORTAL ROAD, ALL EMERGENCY WORK ON ANY PART OF SEGMENT D SHOULD REMAIN WITHIN THE WIDTH AND ALIGNMENT OF THE ROAD AS IT CURRENTLY EXISTS.

Sincerely,

Jeanne C. Aceto

P.S. In a signed letter of agreement in July 2003 that outlined terms of agreement between Friends of Yosemite Valley et al. and the National Park Service with respect to the removal of Cascades Dam, the following is stated: "Any future decision for the El Portal Road would be accomplished through appropriate NEPA planning. The NPS will provide written notice to the plaintiffs in the event of any proposed project and NEPA planning for widening, realignment, or change to the El Portal Road." Why weren't copies of the El Portal EA sent to Plaintiffs attorneys, Friends of Yosemite Valley, and Mariposans for the Environment and Responsible Growth? Is that not a violation of the agreement?

Sierra Club c/o:
George Whitmore
P.O. Box 5572
Fresno, CA 93755
geowhit1954@comcast.net

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YOSEMITE NATIONAL PARK

3 July 2007

Superintendent
Yosemite National Park
ATTN: Reconstructing Critically Eroded Sections of El Portal Road
P.O. Box 577
Yosemite, CA 95389

Fax: 209/379-1294

This is being e-mailed to: yose_planning@nps.gov

Sir:

The following comments are submitted on behalf of the Sierra Club. Thank you for this opportunity to make suggestions which hopefully will be of use to you in your efforts to protect the visitor experience and the natural resources of Yosemite National Park.

These are comments on the Environmental Assessment, dated June 2007, for the Reconstructing Critically Eroded Sections of El Portal Road project.

On June 22 I realized that I had not yet received a copy of the EA. Since the public comment period was scheduled to close on July 3, I immediately made inquiries. I was told that copies had been mailed on June 4. When I found that there were others who also should have received copies and had not, and that the problem clearly was not unique to me, I requested an extension of the comment period. That request was not granted.

On June 25 I requested that a copy of the EA be sent to me. One was postmarked July 27, and I received it the following day.

We will pursue the deficiencies in distribution of this document at a later time. In the meantime, we respectfully request that park planners work to improve the currently antagonistic situation they have created between themselves and the engaged citizen volunteers who are trying to follow park planning issues. Tracking park projects has become a full time job for many of us. A good first step would be for the agency to ratchet down the defensive tone of its communication style.

The focus now must be on attempting to provide comments. However, because of the extremely inadequate amount of time available to review this EA, these comments must

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necessarily be abbreviated and incomplete. It is also possible that, because the NPS has not provided adequate time for us to review this EA, some of our comments may be based on misunderstandings. We find it very unfortunate that a public agency would so compromise the quality of input which the public attempts to provide.

As you know, some of us spend much time walking the ground, participating in Park Service events, and asking questions. Our opinions and recommendations are based on extensive first-hand knowledge of the resources and issues. The Sierra Club has an extensive record of having commented on Segment D going back at least into the late 1990's; and we are still in agreement with the position we have articulated regarding the El Portal Road for the past 8 years.

Our December 2006 scoping comments for this project, which was then titled the "El Portal Road Reconstruction---Pohono Bridge to the Big Oak Flat Road Intersection Project" identified several issues which we believed your planning process must address for this project. We expressed confusion over the use of basic English words such as "repair" and "reconstruction" in regards to this project. We questioned whether there is really need to widen this stretch of road and asked for documentation of accident rates and an exploration of alternative ways of reducing accident rates without widening the road. We asked to see the data that proves this stretch of road is in danger of imminent failure. We questioned the appropriateness of removing a healthy centuries old live oak at the south side of the pavement (between the road and the river) and appealed to your park mission of preserving and protecting to preserve this "specimen tree". We registered our general concern regarding the negative impact of increasing bus transportation in the park and the need for re-thinking all park transportation issues. We also reminded NPS of Judge Ishii's 1999 ruling and suggested that this ruling indicates a full-blown EIS should be done for this type of project rather than an EA. Unfortunately, after reviewing the EP Road EA we see that most, if not all, of our scoping comments have been either ignored or disregarded.

The project should have been preceded by a legally valid Merced River Plan.

It is our current understanding from the necessarily rushed review of the EA, and from extensive conversations with park staff, that neither action alternative calls for blasting of the rock cliff on the north side of the El Portal Road. However, if we are mistaken and if blasting into the rock cliff IS a possibility for this project, this is not acceptable. Such blasting would have vastly more impact than anything discussed in the EA and would result in huge public out-cry. Is what the public is being asked to review in the El Portal EA the final design? Will a design-build approach be used for this project? And does a design-build approach give the contractor an unusual degree of control over mid-course changes in the project? What are the chances that blasting into the cliff will be ruled necessary, even though it is not discussed in the EA?

The original project was to have included the Big Oak Flat Road intersection and extended all the way to Pohono Bridge, a distance of approximately one mile. Out of that entire project, the present EA discusses only 1,350 feet. In Appendix A (Cumulative

Projects List), a project labeled "Narrows to Pohono Bridge" is called "reasonably foreseeable". Although the Big Oak Flat Road intersection has been identified as having a high accident rate, future revision of that intersection is not even listed as a future project, even though it was originally described as being part of the present project. The original "Segment D" project clearly is being piecemealed. This happens to be a violation of NEPA.

We question the appropriateness of the NPS subcontracting work on this EA to a marketing firm (Southwest Planning & Marketing) (p. 6-2, Table 6-1). We have read over the 20 page "Draft Socioeconomic Impact Report on El Portal Road Reconstruction Alternatives" listed in the EA bibliography and we find it to be little more than scare tactics intended to get local residents and the Gateway communities to buy into the park's preferred alternative. This "justification" for both action alternatives is based on conjecture and strikes us as unethical. This marketing focus on local economics may help further to explain the major media spin we have noticed from the park regarding this project.

For many months the NPS has been engaged in a media campaign to make the public think the road is in imminent danger of collapse, and is dangerous. If that were really the case, the NPS has been derelict in not placing warning signs, or instituting a one-way system so that traffic would not travel on the outer lane. It is truly paradoxical---on the one hand it has been claimed that there is a dangerous situation, but on the other hand nothing has been done about it. The EA does not offer any explanation for this paradox.

If there is actually increased danger of collapse and sewage spill for this 1,350 foot section of the El Portal Road, the EA should incorporate a clear and concise description of the vulnerability of the sewer system under this section of road.

In the absence of a legally valid Merced River Plan, if work were truly needed to stabilize the existing road it could have been done without exceeding the footprint of the existing road. Since the "historic dry stack wall" is still standing after many decades of repeated high water events, it would appear to be more sturdy than the NPS is willing to acknowledge. We have seen no evidence of movement suggesting instability. Recognizing that high water penetrates the openings between the rocks and washes out the fine fill material underlying the road bed, it would be a simple matter to spray a concrete mix onto the wall to seal it. This has already been done on portions of the wall, leaving the question of why it had not been done over a larger area, effectively preventing penetration of water.

That would have been the obvious course of action, and would not have required an EA. Why was it not done?

But if NPS wishes to consider a more massive, complex, engineered project, it is clear that an adequate range of Alternatives has not been presented.

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The most obvious one would have been to use the same design and construction techniques you are proposing for Alternatives 2 and 3, but limit the road width to what can be accommodated without the impacts of Alternatives 2 and 3. In particular, it would have been possible to retain the historic specimen live oak tree by widening the most westerly of the two curves, adjacent to the intersection. This would have made it possible to open up the curve around the oak tree.

An integral part of such an Alternative would be to accept a lower speed limit in that area. Insistence on maintaining a uniform road standard so drivers do not have to slow down is not consistent with National Park values. It is also not consistent with previous statements on road standards which have been made by the Yosemite administration.

As to the "historic specimen (live oak) tree", the definition in the Glossary speaks to the fact that the age of the tree and its proximity to the road "implies that measures were deliberately taken to protect and conserve [it] during the initial construction of the road." After these many years of deliberately protecting and conserving the tree, we question why the tree now must be sacrificed to the present concept of "progress". We feel that collecting acorns from a healthy oak before cutting it down is completely inappropriate, and certainly a misuse and misinterpretation of mitigation. "Progress" in the present case seems to mean ever-larger vehicles and higher speeds.

We believe that a possible and environmentally preferable alternative could re-construct the road without widening or removing the centuries old live oak. This oak stands where there is no undermining by the river. This stretch of the El Portal Road may be narrower than segments A, B, and C but unlike those stretches of the El Portal Road it is relatively flat. The "National Park Service Before and After Safety Study" prepared with FHA (not included in the EP Road EA) states on page 42 that curved and level areas actually have lower accident rates than even the straight and level ones. The same study also demonstrates that "roadway condition" such as narrowness is the least likely of contributing factors to driving accident rates on the El Portal Road (p.43). Also, if the road were to be widened here, the speed of travel would increase; this would most certainly increase wildlife mortality in this stretch of road and would increase the severity of any traffic accident.

We call upon the Park Service to think in terms of what is appropriate for the Park, rather than succumbing to the demand for ever-larger vehicles and higher speeds.

We are concerned with the cumulative impacts of the action alternatives of this project and we do not see the EP Road EA addressing these very real and unpleasant impacts. The negative impact of major long-term road construction on the visitor experience alone needs to be fully addressed, especially since there is a strong possibility that this project will coincide with the major road construction of the Valley Loop Road and "restoration" of Highway 140 at the Ferguson rockslide.

Unlike previous EA's produced by the NPS, this one does not have a list of entities receiving the document. In view of the problems with organizations not receiving the

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document, described at the beginning of this message, we find the omission of the list to be rather curious. What is the reason that that past practice has been abandoned?

While public comments (scoping and other expressions of concern), and the NPS response to them, has been a part of previous NEPA processes, it sometimes occurs too late in the process to be of much value to the public. It would help in commenting on the EA itself if the EA contained the scoping comments and the NPS responses. While it is too late in the present process, we request that this idea be considered in future processes.

We request that NPS post all public comments for the EP Road EA on the NPS web site in an accessible and timely manner.

As managers of Yosemite, please keep in mind, and heart, that Yosemite National Park is cherished worldwide and belongs to all American citizens. And that the measure of a society, no matter how large or diverse, is what it protects.

Thank you for seeking public input on the El Portal Road project Environmental Assessment. We hope you find our comments to be useful.

George Whitmore, Chair
Sierra Club's Yosemite Committee